S.B. CIVIL WRIT PETITION NO.371/2005
Union of India & Ors. vs. State of Raj. and others.

Date : 20.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Arvind Samdaria, for the petitioners.

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Heard learned counsel for the petitioners.

The petitioner has challenged the order passed by this Court on 1.10.2004 in S.B. Civil Arbitration Application NO.43/2004 by which this Court allowed the application filed by the applicant/respondent under Section 11 of the Arbitration and Reconciliation Act, 1996 for appointment of arbitrator. This Court on finding that the dispute has arisen in terms of Clause 37 of the arbitration agreement and the present petitioner failed to appoint sole arbitrator as required notwithstanding notice to this effect has been served by applicant/respondent vide notice dated 26.4.2004. This Court held that existence of contract, dispute and notice are not in dispute and it relates to the dispute arising out of the contract and hereafter referred the matter to the Arbitrator.

According to learned counsel for the petitioner, the dispute raised by the applicant does not fall within the contract and, therefore, the respondent could not have requested for appointment of arbitrator. It is also submitted that since the

dispute has not arisen in relation to or arising from the contract, therefore, it will be beyond the jurisdiction of the arbitrator to decide the matter.

All these objections can be raised by the petitioner before the Arbitrator and the Arbitrator will decide the objections.

In view of the above, I do not find any reason to entertain this writ petition.

With these observations, this writ petition is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya